UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LEASE AMERICA.ORG, INC., Plaintiff, v. ROWE INTERNATIONAL CORPORATION, AMI ENTERTAINMENT NETWORK, INC., AMUSEMENT AND MUSIC OPERATORS ASSOCIATION, INC., DOE DEFENDANTS 1-10 Defendants.	Case No. 1:15-CV-00348-JTN Hon. Janet T. Neff

DEFENDANT, AMUSEMENT AND MUSIC OPERATORS ASSOCIATION, INC.'S ANSWER TO FIRST AMENDED COMPLAINT

The Defendant, Amusement and Music Operators Association, Inc., ("AMOA") hereby answers the allegations set forth in the First Amended Complaint ("FAC") and asserts defenses as follows:

INTRODUCTION

1. This is a paradigm case involving a restraint of trade in an industry that is in a constant struggle to maintain the status quo. Lease America offered to sell digital jukeboxes in a manner that was more favorable to consumers than the traditional method. Its business model was a direct threat to the conventional distribution channels that have been standard in the industry for decades. Lease America's competitors are openly hostile to Lease America's method of doing business, and Defendants AMOA and Rowe worked together in concert to prevent progressive change in the jukebox operator industry. This suppression would ensure that the

traditional model could remain unrivaled and no one would have to innovate to compete or survive.

Response 1: The first sentence of paragraph 1 contains statements and conclusions of law, to which no response is required. To the extent that a response is deemed to be required, AMOA denies the first sentence of paragraph 1 and lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the second and third sentences of paragraph 1. In further answering, AMOA denies the allegations in the third and fourth sentences of paragraph 1.

2. The AMOA, backed by the power of strength in numbers, threatened a boycott against Rowe if Rowe continued to supply jukeboxes to Lease America. Unwilling to risk losing a substantial portion of its customer base and further angering a powerful trade association, Rowe acquiesced to the AMOA and remotely disabled all of Lease America's jukeboxes without any prior notice, providing only vague and pretextual reasons for doing so.

Response 2: AMOA denies the allegations in paragraph 2 directed to AMOA and lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 2.

3. Lease America brings this action seeking redress for violations of Section 1 of the Sherman Act, and violations of Section 11 of Chapter 93A of the Massachusetts General Laws.

Response 3: Paragraph 3 contains statements and conclusions of law, to which no response is required. In further answering, Lease America's claims under Chapter 93A of the Massachusetts General Laws have been dismissed.

JURISDICTION AND VENUE

4. This Court has original and exclusive jurisdiction over this civil action pursuant to 15 U.S.C. §§ 15 and 1121 and 28 U.S.C. §§ 1331, 1332, and 1337. This Court may exercise supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367.

Response 4: Paragraph 4 contains statements and conclusions of law, to which no response is required. To the extent that a response by AMOA is deemed to be required, AMOA denies that supplemental jurisdiction over state law claims exist in this case and lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 4.

5. Venue is proper in this District because Defendants all transact business and can be found within this District within the meaning of 15 U.S.C. §§ 15 and 22 and 28 U.S.C. § 1391. Further, some of the unlawful acts alleged herein were performed and occurred in material part within this District.

Response 5: Paragraph 5 contains statements and conclusions of law, to which no response is required. To the extent that a response by AMOA is deemed to be required, AMOA denies the allegations in paragraph 5 to the extent that this case was transferred to the Western District of Michigan per Order dated March 31, 2015.

INTERSTATE COMMERCE

6. The actions complained of herein have restrained and adversely affected interstate commerce because Defendants sell their products and operate across state lines. Further, Defendants all purchase goods and supplies integral to the conduct of their business in interstate commerce.

Response 6: Paragraph 6 contains statements and conclusions of law, to which no response is required. To the extent that a response by AMOA is deemed to be required, AMOA denies the allegations in the first sentence of paragraph 6. In further answering, AMOA lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the second sentence of paragraph 6.

THE PARTIES

7. Plaintiff Lease America is a corporation existing under the laws of Massachusetts, with its principal place of business at 129 Hartford Turnpike, Shrewsbury, Massachusetts 01545.

Response 7: AMOA lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 7.

8. Defendant Rowe, on information and belief, is a corporation existing under the laws of Delaware, with its principal place of business at 1500 Union Ave., S.E., Grand Rapids, Michigan, 49507.

Response 8: AMOA lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 8.

9. Defendant AMI, on information and belief, is a corporation existing under the laws of Delaware, with its principal place of business at 155 Rittenhouse Circle, Bristol, Pennsylvania 19007.

Response 9: AMOA lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 9.

10. Defendant AMOA, on information and belief, is a corporation existing under the laws of Illinois, with its principal place of business at 600 Spring Hill Ring Road, Suite 111, W. Dundee, IL 60118.

Response 10: **Admitted.**

ADDITIONAL UNNAMED CO-CONSPIRATORS

11. Various persons, firms, corporations, organizations, and other business entities, some unknown and others known, have participated as co-conspirators with the above-named entities in the violations alleged and have performed acts in furtherance of the conspiracy and restraint of trade. Co-conspirators whose identities are presently known include: Rowe and AMOA. Additional co-conspirators may be revealed during the course of discovery.

Response 11: Paragraph 11 contains statements and conclusions of law, to which no response is required. To the extent that a response by AMOA is deemed to be required, AMOA denies the allegations in paragraph 11.

FACTUAL ALLEGATIONS

The Jukebox Market

12. The jukebox industry has changed in recent years. The majority of new jukeboxes sold in the United States are now digital internet jukeboxes and do not play music based on records or CDs loaded into the jukebox. Rather, these new jukeboxes are self-contained and consist of a touchscreen display, a core computer, a storage device, a bill validator, and an amplifier. The jukebox requires an internet connection and proprietary software (unique to each box's manufacturer) containing key codes that grant access to the jukebox's music selection. In other words, a jukebox can only play the manufacturer's music, accessed remotely through the internet from a central server, and nothing else. Digital internet jukeboxes allow the manufacturer to constantly monitor and control every single jukebox it manufactures.

Response 12: AMOA denies that paragraph 12 sets forth a complete and accurate description of the matters asserted therein and otherwise lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 12.

13. The jukebox industry has a particular and traditional structure where each jukebox ultimately finds a home in a bar, restaurant, or other venue. The largest and sole remaining significant manufacturers of jukeboxes in the United States are Rowe and Touch Tunes. Another large manufacturer, Ecast Network, recently shut down operations. Rowe holds itself out to be the "number one manufacturer" of jukeboxes and has announced that it is a secured creditor of Ecast, so it will presumably become even larger. In a 2009 press release, Rowe, which has approximately 230,000 jukeboxes in operation, acknowledges having 70% of the U.S. jukebox market.

Response 13: AMOA denies that paragraph 13 sets forth a complete and accurate description of the matters asserted therein and otherwise lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 13.

14. Manufacturers then sell jukeboxes to distributors. Distributors act as a "middle man" between the manufacturers and the operators.

Response 14: AMOA denies that paragraph 14 sets forth a complete and accurate description of the matters asserted therein and otherwise lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 14.

15. Operators are the jukebox owners, who place jukeboxes in venues for a revenue share and end-user access. A business that wants to become an operator needs permission from a distributor. Once an operator has permission, it signs a master operator agreement and it may then put jukeboxes in restaurants and other venues. Under the traditional model, the

venue does not own the jukebox, but it pays a fee to the operator. Some, or all, of this fee moves back upstream to the manufacturer, who then provides a portion to the distributor. The operator remains the technical owner of the jukebox.

Response 15: **AMOA denies that paragraph 15 sets forth a complete and accurate description of the matters asserted therein and otherwise lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 15.**

16. Many jukebox operators are members of the AMOA. The AMOA represents the interests of coin machine operators, including jukeboxes. As phrased in a late 2009 to early 2010 email to its members: the AMOA claims: "To be clear, as the trade group representing the interests of coin machine operators, AMOA condemns any practice that attempts to undermine, threaten or otherwise circumvent the operator community."

Response 16: **AMOA admits that its members include jukebox operators and that it represents the interests of coin machine operators, including jukeboxes and others. AMOA lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the second sentence of paragraph 16 insofar as the First Amended Complaint does not identify the document that it purports to quote. In further answering, AMOA states that the quoted document speaks for itself.**

Lease America's Business Method

17. Lease America's business method is not new, and it is likely not the first and only victim of an anticompetitive competitive concerted refusal to deal. Lease America challenged the traditional operator business model. Rather than merely placing jukeboxes in venues and constantly collecting high fees, Lease America would sell the jukebox directly to the venue. Under Lease America's business model, Lease America would retain no less than

a five percent interest in the jukebox, and would collect a monthly fee to cover its ownership interest and other royalty fees. Selling directly to the venue would grant the jukebox owner greater control over the jukebox and reduce fees paid by venues and end users. For example, a venue that owned a jukebox could dictate the price a patron paid per song. Likewise, the venue owner would pay a one-time cost for the jukebox and then would only have to pay Lease America commensurate with the performance of the jukebox.

Response 17: **AMOA denies that paragraph 17 sets forth a complete and accurate description of the matters asserted therein and denies that Lease America is a victim of anticompetitive conduct or a concerted refusal to deal. In further answering, AMOA lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 17.**

18. Lease America had an agreement with Rowe to implement its business model, and demand for Lease America's model quickly increased. In an email dated July 14, 2008, Mike Maas, an executive with AMI, explicitly agreed to exempt Lease America from certain "click wrap" requirements. Hoping to avoid angering the operators and distributors that were vociferously opposed to Lease America's business model (and any support Rowe might provide to Lease America), Mike Maas indicated that "[n]either of us will discuss or disclose this special arrangement with other parties. If you agree to that I think we can move forward immediately."

Response 18: **AMOA lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 18.**

Defendants' Boycott of Lease America

19. Although Lease America's business model was popular with customers, it is no secret in the industry that the AMOA opposed the direct selling of jukeboxes. Jack Kelleher, the AMOA's Executive Vice President, wrote in the AMOA's weekly newsletter on January 7, 2011, *Off the Top:* "Some three years ago, JukesDirect brazenly marketed digital jukeboxes directly to locations and made nary a dent in the industry. It's just not a model that long-term, holds much promise . . . at least domestically. To be clear, as the trade group representing the interests of coin machine operators, AMOA condemns any practice that attempts to undermine, threaten or otherwise circumvent the operator community." As recently as July 2012, the President of the AMOA, Andy Shaffer, stated that he did not "condone" the direct sell model, he did not "believe in it," and the AMOA as an organization did not agree with the direct sell model.

Response 19: AMOA denies the allegations in the first sentence of paragraph 19. In further answering AMOA states that the document and quoted material set forth in the second sentence of paragraph 19 speaks for itself. AMOA lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 19.

20. Like JukesDirect (and others), Lease America "brazenly" chose to offer consumers an alternative that might "undermine, threaten, or otherwise circumvent the operator community." Rather than allowing natural market forces to determine whether Lease America's direct model held long-term domestic promise, the AMOA took matters into its own hands.

Response 20: AMOA lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of paragraph 20 insofar as the First

Amended Complaint does not identify the document that it purports to quote in this sentence. In further answering, AMOA states that the document speaks for itself. AMOA denies the allegations in the second sentence of paragraph 20.

21. At a trade show in Las Vegas, Nevada (the precise date which is unknown but prior to 2009), after Lease America announced its business model, an operator opposed to Lease America's business model stated to Lease America founder and CEO Charles Pietrewicz that "the hole is already dug for you." Other operators—that is, Lease America's competitors—complained to Lease America, the AMOA, other trade associations, and Rowe. After several operators had complained to the AMOA about Lease America, the AMOA recognized that it needed to act. In early 2009, the AMOA held a meeting about Lease America and how to suppress its growth. At this meeting, the AMOA's members decided that they would boycott Rowe if it continued allowing Lease America to sell direct. A participant at this meeting later told Mr. Pietrewicz about the occurrence of this meeting, that Lease America was specifically discussed, and the plan that was hatched.

Response 21: **AMOA lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the first and second sentences of paragraph 21. AMOA denies the remaining allegations in paragraph 21.**

22. After this meeting, in late February to early March 2009, the AMOA approached Rowe and threatened that its operator members would no longer use Rowe jukeboxes if Rowe continued to allow Lease America to sell its jukeboxes direct. Unwilling to lose an enormous share of its customer base, Rowe agreed with the AMOA and its members to boycott Lease America, and on March 10, 2009, Rowe terminated Lease America's agreement with no advance notice. After already granting Lease America an exemption from

the new "click wrap" agreement, AMI's counsel indicated that Lease America had deviated from those terms. Neither AMI nor Rowe provided any specification to Lease America.

Response 22: AMOA denies the allegations in the first and second sentences of paragraph 22. AMOA lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 22.

23. Because the jukeboxes were controlled from a Rowe central server, the jukeboxes were simply turned off, and neither Lease America nor the venue's owners were able to access the content of the jukeboxes, rendering them useless. As such, the venues' patrons were unable to use the jukeboxes as well. Lease America could not practicably turn to the only other significant jukebox manufacturer Touch Tunes as a substitute or alternative to Rowe because (1) no other jukebox manufacturer could make Lease America's Rowe hardware (digital jukeboxes) work with their respective platforms and (2) no other manufacturer, including Touch Tunes, would, after the boycott threat, deal with Lease America.

Response 23: AMOA lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 23.

24. The AMOA has faced criticism for not being aggressive enough to suppress direct-sale operators. One article from *Vending Times,* posted on February 25, 2011, stated: "These critics ask . . . Where is AMOA now that another direct-sales jukebox scheme has popped up?" As such, the AMOA's induced boycott of Lease America was timed with an AMOA industry trade show. At this trade show, it was announced that the AMOA had successfully caused the termination of Lease America—a "direct-sales jukebox scheme." After shutting Lease America's jukeboxes off, Rowe sent out operators to Lease America's

customers to convert the Lease America jukeboxes to new agreements. These operators informed Lease America's customers that Lease America had been shut down.

Response 24: AMOA lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the first two sentences of paragraph 24. In furthering answering, AMOA states that the referenced document and quoted materials speaks for itself. AMOA denies the allegations in the third and fourth sentences of paragraph 24 and lacks knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 24.

25. Lease America is not the only operator that has been the victim of a boycott. When Ecast (Rowe's former competitor) supported a direct sell program, AMOA New York director Danny Frank sent a scathing letter to the president of Ecast. This letter broadly hinted that operators would boycott Ecast if it continued to support Power House, a California jukebox operator that had a business model similar to Lease America's. Likewise, the AMOA stated that "attempts have been made to ratchet up the pressure on the manufacturer [and] content provider [that] is supplying the music to 'cut off this particular customer." While Ecast did not succumb to the AMOA pressure (citing a decree it entered into with the U.S. Department of Justice following an investigation into possible antitrust violations), Rowe did.

Response 25: AMOA lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 25 concerning AMOA New York which is a separate, distinct and unrelated entity from AMOA. To the extent that paragraph 25 includes any allegations directed to AMOA, those allegations are denied.

26. Rowe's disabling of Lease America's jukeboxes was the killing blow to Lease America's direct sell business model. The AMOA, acting as a combination of its members,

responded to its members' complaints by bullying Rowe—through threats of boycotting Rowe—to eliminate Lease America as a competitor. The AMOA's threat against Rowe was successful; Lease America was forced out of the market, and consumers were deprived of an alternative choice to the status quo for acquiring or purchasing jukeboxes.

Response 26: **Denied.**

CLAIMS FOR RELIEF

CLAIM ONE
Violation of the Sherman Act, Section 1 (15 U.S.C. §1)
(Against all Defendants)

27. Lease America re-alleges and incorporates by reference the allegations set forth in paragraphs 1-26 of this Complaint.

Response 27: **AMOA repeats and realleges its responses to paragraphs 1-26 of the First Amended Complaint as if fully set forth herein.**

28. Section 1 of the Sherman Act (15 U.S.C. § 1) prohibits agreements or arrangements that unreasonably restrain competition to the detriment of consumers.

Response 28: **Paragraph 28 contains statements and conclusions, as to which no response by AMOA is required.**

29. The AMOA—acting as a combination of its operator members—was opposed to Lease America's method of selling jukeboxes. On or around late February to early March 2009, the AMOA approached Rowe, Lease America's jukebox manufacturer, and indicated that its operator members intended to stop purchasing jukeboxes from Rowe if it continued to supply Lease America. On March 10, 2009, agreeing with the AMOA, Rowe simply turned off all of Lease America's jukeboxes. When Lease America could no longer offer music for the jukeboxes it sold, its other operator competitors took over Lease America's customers.

Response 29: Denied.

30. This direct agreement between the AMOA and Rowe is a brazenly anticompetitive arrangement that impacts consumers' ability to obtain digital jukeboxes under more favorable terms. The AMOA acted as a combination of its members to incite this boycott, which Rowe acquiesced to. Given the largely horizontal nature of this boycott and that it is not ancillary to any legitimate business arrangement, the restraint of trade at issue is per se unlawful.

Response 30: Denied.

31. Alternatively, the AMOA and Rowe's agreement to boycott Lease America is an unreasonable restraint of trade that violates the "Rule of Reason." The anticompetitive consequences of the boycott, as set forth below, substantially outweigh any procompetitive effects that may stem from the conduct.

Response 31: Denied

32. The relevant product market for antitrust purposes is digital jukeboxes. There are no reasonably interchangeable substitutes for digital jukeboxes in terms of price, use, and quality. The relevant geographic market is the United States because that is where purchasers of digital jukeboxes purchase these products and that is where the sellers sell them.

Response 32: Paragraph 32 contains statements and conclusions, as to which no response by AMOA is required. To the extent that a response is deemed to be required, AMOA lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 32.

33. The above-described acts of the AMOA, Rowe, and other unnamed co-conspirators have produced antitrust injury, as more specifically described in paragraphs 1, 13,

17, 23, and 26, and will continue to produce at least the following anticompetitive and injurious effects upon competition in interstate commerce in the United States:

(a) When Rowe/AMI, acting pursuant to the trade-restraining conspiracy with the AMOA, turned off Lease America's jukeboxes as explained in paragraph 29, this had the effect of depriving venue owners and venue patrons of utilizing Lease America jukeboxes with the result that output of jukeboxes in the relevant geographic market was reduced and competition in the relevant product market was reduced, particularly price competition because Defendants were relieved of the competitive pressure created by Lease America's direct selling business model. Accordingly, price competition in the market for digital jukeboxes has been substantially and unreasonably restricted, lessened, foreclosed, and eliminated, with the effect that consumers are being charged and will continue to be charged higher prices for jukebox utilization.

(b) When Rowe/AMI, acting pursuant to the trade-restraining conspiracy with the AMOA, turned off Lease America's jukeboxes as explained in paragraph 29, this had the effect of depriving venue owners and venue patrons of utilizing Lease America jukeboxes, with the result that total output has been reduced, and consumer choice has been, and will continue to be, limited and constrained as to the manner in which they may acquire digital jukeboxes.

(c) When Rowe/AMI, acting pursuant to the trade-restraining conspiracy with the AMOA, turned off Lease America's jukeboxes as explained in paragraph 29, this had the effect of depriving venue owners and venue patrons of utilizing Lease America jukeboxes, with the result that output has been reduced and consumer access to Lease America (and other) direct-sale jukeboxes has been artificially restricted and reduced.

(d) When Rowe/AMI, acting pursuant to the trade-restraining conspiracy with the AMOA, turned off Lease America's jukeboxes as explained in paragraph 29, this had the effect of insulating Defendants from the competitive process, innovation, and pressures of competition, with the result that consumers will continue to pay higher prices for digital jukeboxes, with less control over the entertainment in their own venues. One observable effect of the Defendants' conduct on innovation is that Lease America's more efficient and less expensive direct method of distributing jukeboxes has been suppressed and thwarted and is not likely to be resurrected in the foreseeable future.

(e) When Rowe/AMI, acting pursuant to the trade-restraining conspiracy with the AMOA, turned off Lease America's jukeboxes as explained in paragraph 29, this had the effect of relieving Defendants of the competitive pressure of responding to innovations, with the result that innovation in the way digital jukeboxes can be obtained and operated by consumers has been, and will continue to be, suppressed, limiting output and causing harm to Lease America, competitors, consumers, and the competitive process. Since Defendants' boycott was implemented, Lease America has received thousands of inquiries from interested consumers across the country to buy jukeboxes directly from Lease America. But because of Defendants' unlawful restraint of trade, consumers were unable to purchase jukeboxes from Lease America and were required to stick with the outdated and inefficient status quo.

Response 33: (a) – (e) Denied.

34. By reason of, and as a direct and proximate result of, Defendants' anticompetitive practices and conduct, Lease America has suffered financial injury to its business and property in that Lease America has been deprived of revenues and profits it would have otherwise made. As a result, Lease America was driven out of business, and has sustained, in addition to a loss of profits, a loss of going concern value. Preliminary

calculations reflect that in the period from March 1, 2009 through December 31, 2012, Lease America would have sold 1000 jukeboxes, producing net lost profits of slightly more than $5,000,000. Based on those projected lost earnings, Lease America's preliminary calculation of loss of going concern value is approximately $10,000,000.

Response 34: AMOA denies the allegations in first two sentences of paragraph 34. In further answering, AMOA lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 34.

WHEREFORE, AMOA requests that the Court enter an Order dismissing the claims asserted by the plaintiff and award the defendant its reasonable costs and attorney's fees incurred in defending this action.

CLAIM TWO
Violation of Chapter 93A of the Massachusetts General Law
(Against all Defendants)

35. Lease America re-alleges and incorporates by reference the allegations set forth in paragraphs 1-34 of this Complaint.

Response 35: AMOA repeats and realleges its responses to paragraphs 1-34 of the First Amended Complaint as if fully set forth herein.

36. Defendants are engaged in the conduct of trade and commerce in the Commonwealth of Massachusetts within the meaning of Massachusetts General Law Chapter 93A ("chapter 93A").

Response 36. Count Two has been dismissed and therefore no response by AMOA is required.

37. Based on all of the above alleged conduct, and other conduct to potentially be revealed during discovery, Defendants violated chapter 93A by engaging in unfair methods of

competition and unfair deceptive acts or practices in the jukebox industry within the definition of chapter 93A sections 2 and 11. These practices are:

(a) violations of statutory laws, the common law, or other established concepts of unfairness;

(b) immoral, unethical, oppressive, or unscrupulous; and

(c) substantially injurious to competitors, other business people, or both.

Response 37. Count Two has been dismissed and therefore no response by AMOA is required.

38. The acts described herein occurred primarily and substantially within the Commonwealth because Defendants committed injurious acts within the Commonwealth, Lease America is located in the Commonwealth, and Lease America was injured in the Commonwealth. Lease America developed its business plan in Massachusetts, is incorporated in Massachusetts, dealt with its jukebox distributor in Massachusetts (Betson New England—located in Massachusetts), paid taxes in Massachusetts, and was put out of business in Massachusetts. Likewise, when Rowe turned off Lease America's jukeboxes at the AMOA's urging, many of these jukeboxes were located in Massachusetts. In sum, Lease America is located in Massachusetts and claims significant injury in Massachusetts.

Response 38. Count Two has been dismissed and therefore no response by AMOA is required.

39. By reason of, and as a direct and proximate result of, Defendants' unfair trade practices in the jukebox industry, Lease America has suffered monetary damages and loss of going concern value. Because Defendants' conduct was willful and malicious, Lease America is entitled to treble damages and attorneys' fees.

Response 39. Count Two has been dismissed and therefore no response by AMOA is required.

WHEREFORE, AMOA requests that the Court enter an Order dismissing the claims asserted by the plaintiff and award the defendant its reasonable costs and attorney's fees incurred in defending this action.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The FAC fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

The claims asserted in the FAC are barred by the applicable statute of limitations.

THIRD AFFIRMATIVE DEFENSE

Plaintiff is barred from recovery because AMOA acted independently and for independent, legitimate reasons and/or justifications in its dealings with Plaintiff.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff has failed to establish a non-competitive objection or an unreasonable restraint by AMOA.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff is barred from recovery because AMOA did not enter into any contract, combination or conspiracy in restraint of trade regarding Plaintiff.

SIXTH AFFIRMATIVE DEFENSE

Plaintiff is barred from recovery by the doctrine of unclean hands.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiff is barred from recovery by the doctrine of laches, estoppel and/or waiver.

EIGHTH AFFIRMATIVE DEFENSE

Any conduct by AMOA that is in issue here was unilateral and not a concerted action with others.

NINTH AFFIRMATIVE DEFENSE

Plaintiff has failed to allege or show a *per* se violation of the Sherman Act by AMOA; accordingly, the rule of reason should apply herein, and AMOA is not liable thereunder.

TENTH AFFIRMATIVE DEFENSE

Any action or agreement by AMOA was not an unreasonable restraint of trade within the meaning of the Sherman Act.

ELEVENTH AFFIRMATIVE DEFENSE

Any action or agreement by AMOA was not an anticompetitive restraint of trade within the meaning of the Sherman Act.

TWELFTH AFFIRMATIVE DEFENSE

Any action or agreement by AMOA was not an exercise of economic power in a relevant economic market in violation of the Sherman Act.

THIRTEENTH AFFIRMATIVE DEFENSE

Plaintiff is barred from recovery because it cannot establish that there is a separate and viable relevant economic product market for the system and/or method proposed by Plaintiff that is relevant to its alleged damages and the alleged conduct of AMOA.

FOURTEENTH AFFIRMATIVE DEFENSE

Plaintiff is barred from recovery because it has failed to identify a viable geographic market relevant to the alleged antitrust violation.

FIFTEENTH AFFIRMATIVE DEFENSE

Any action or agreement by AMOA did not impair the competitiveness of a relevant economic market in violation of the Sherman Act.

SIXTEENTH AFFIRMATIVE DEFENSE

The conduct, statements and/or agreement alleged were made by persons or entities for whose conduct AMOA is not legally responsible.

SEVENTEENTH AFFIRMATIVE DEFENSE

Plaintiff has not suffered any antitrust injury as a result of AMOA's conduct.

EIGHTEENTH AFFIRMATIVE DEFENSE

Plaintiff's alleged damages are speculative in nature and, thus, do not form the basis for any relief from AMOA.

NINETEENTH AFFIRMATIVE DEFENSE

The Plaintiff lacks antitrust standing.

TWENTIETH AFFIRMATIVE DEFENSE

The antitrust violation alleged by Plaintiff was not a necessary predicate to the Plaintiff's alleged injury.

TWENTY FIRST AFFIRMATIVE DEFENSE

The termination of the Plaintiff's agreement with the co-defendant was lawful and due to Lease America's breach of contract and wrongful conduct.

TWENTY SECOND AFFIRMATIVE DEFENSE

Plaintiff has failed to mitigate its alleged damages thereby barring or diminishing any recovery to which it might otherwise be entitled.

TWENTY THIRD AFFIRMATIVE DEFENSE

Plaintiff is not entitled to multiple damages or attorneys' fees.

TWENTY FOURTH AFFIRMATIVE DEFENSE

Plaintiff is barred from recovery of the relief it requests as a matter of public policy.

TWENTY FIFTH AFFIRMATIVE DEFENSE

AMOA did not acquiesce to, aid and abet, or otherwise facilitate any illegal scheme, trade-restraining agreement, or other conduct actionable under the Sherman Act.

TWENTY SIXTH AFFIRMATIVE DEFENSE

AMOA has at all times relevant to this action engaged in legitimate trade association activities that are pro-competitive as a matter of law.

TWENTY SEVENTH AFFIRMATIVE DEFENSE

AMOA's actions did not cause Plaintiff's alleged injury.

TWENTY EIGHTH AFFIRMATIVE DEFENSE

The FAC does not describe the subject claims with sufficient particularity to enable AMOA to determine all of the grounds for its defenses. AMOA therefore reserves its rights to assert for its defense any ground that might become available once the precise nature of Plaintiff's claims is ascertained.

WHEREFORE, AMOA requests that this Court:

1. enter judgment for defendant AMOA on the First Amended Complaint in its entirety;

2. dismiss the First Amended Complaint with prejudice;

3. award AMOA its costs and expenses in this action, including reasonable attorneys' fees; and

4. grant to AMOA such other and further relief as this Court deems proper and just.

DEMAND FOR JURY TRIAL

The defendant Amusement and Music Operators Association, Inc., hereby demands trial by jury pursuant to Rule 38(b) of the Federal Rules of Civil Procedure.

AMUSEMENT AND MUSIC OPERATORS ASSOCIATION, INC.

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AMUSEMENT AND MUSIC OPERATORS ASSOCIATION, INC.,

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CERTIFICATE OF SERVICE

I, Michael J. Griffin, hereby certify that as of this 7th day of October, 2016, I have served the within Answer to First Amended Complaint via the CM/ECF system on all counsel of record.

/s/ Michael J. Griffin
Michael J. Griffin

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